

## **WATER AUTHORITY MEETING**

**February 20, 2009 – 3:00 p.m.**

PRESENT: Chairman Jack Lawler; SCWA Members: Arthur Johnson, Greg Connors, Mary Beth Hynes, Charles Wait, Kevin King; Bill Simcoe, SCWA Executive Director; Craig Crist, Counsel; Leah Everhart, Special Counsel; Dan Loewenstein, Malcolm Pirnie; Ed Vopelak, C. T. Male; Wes Carr; Alan Grattidge, Supervisor, Town of Charlton; Frank Thompson, Supervisor, Town of Milton; Press

Chairman Lawler called the meeting to order.

Mr. Wait moved to approve the minutes of the meeting of January 14, 2009, as amended. Mr. Connors seconded. Mr. Crist said the amendment is that the Personnel Committee at this time is Greg Connors. Mary Beth Hynes did not accept her seat as yet and will once we receive an opinion from the Authority's budget office, he said. The motion was adopted by the following vote: AYES – Lawler, Connors, Hynes, Johnson, Wait. ABSTAIN – King.

Mr. Simcoe said the project is 72% completed. There is a little additional construction going on at the treatment plant. Not much pipeline has been going on due to the winter weather, he said. We are up to date with our DASNY grants, he stated.

Chairman Lawler asked if we are still on track for fall completion. Mr. Simcoe said we are still waiting for final word in regards to Kubricky's completion date, and Malcolm Pirnie is still reviewing information received from Kubricky. We are anticipating a change order that will memorialize what their new completion date in 2009 will be, he said.

Mr. Crist said we have our easements with necessary amendments from OPRHP that we requested in total. He said he's been told they will be e-mailed to him today or tomorrow for his signature and for execution by the Chairman. He requested a **resolution to**

**authorize the Chairman to execute the easements with the NYS Office of Parks, Recreation and Historic Preservation. Mr. Connors moved to approve this resolution. Mr. Wait seconded. Unanimous.**

Mr. Simcoe said he sent copies of the report on the Pipeline Extension Feasibility to the Board members looking at the potential for extending the transmission main to Town and Village of Stillwater, Halfmoon, Waterford, Clifton Park and Ballston. Chairman Lawler said he would like to have an in-depth presentation at the next meeting. He said preliminarily, it seems to work for us because we have the fixed cost of the plant, and as we add users and distribute that cost, our break even gets a lot easier with each successive new user. Chairman Lawler said we met last Thursday with the Town of Stillwater, and there was a question of the route that would be used. He requested Mr. Simcoe to give each member a copy of that report before they leave today so that can be a major item of discussion at the next meeting. We will want to make sure we want to take this to the next step, he said. He stated a lot of the engineering is already done for us. Some of the rights-of-ways seems to come together very well for us, and at the end of the day, it is a cost analysis, he said. He stated the number thrown out there was \$20 million to \$22 million for 21 miles of pipe. He said for his own community, they would be looking at 1 ½ million gallons of water per day which would be a major addition to the Authority's daily demand; Halfmoon is up in the air, but it is probably at least 1 ½ million gallons per day; Town and Village of Stillwater an estimate of ½ million gallons per day. He said this would actually generate an operating profit for the Authority. He requested the members to look over the report and call or e-mail Mr. Simcoe with any questions.

Chairman Lawler said at this point, we will not pay for connection costs, but the cost to actually extend our main transmission line further into Clifton Park is in that \$20 - \$22 million number.

Mr. Simcoe said the main mechanism for funding water projects in the State is the Drinking Water State Revolving Fund. There is some discussion about the economic stimulus money being funneled through the Drinking Water State Revolving Fund. If we want to get something submitted into their intended use plan we need to do that soon, as they have a March 1<sup>st</sup> deadline, he said. He said he sent Chairman Lawler some draft copies of the pre-application. He said we are looking to use this money for the extension into the southern towns and security money, because the water system security was not part of the initial plans. Chairman Lawler said this marks our request as being relevant and existing on the State Environmental Facilities Corporation's long-term debt plans. **Mr. Wait moved to authorize the Director to submit this application and authorize the Chairman to sign documents, as necessary, subject to review and approval of the Authority Attorney. Mr. Johnson seconded. Unanimous.**

Mr. Simcoe said we have not received any money as yet from the Empire State Development Corporation for the \$1.75 million. We already have \$900,000 against that, and we are about to submit our third request, he said. Chairman Lawler asked what their answer is. Mr. Simcoe said they say the money has not been released as yet. Mr. Wait asked if there was a reason why money flows more quickly through DASNY than the

ESDC. Is there a technical budgeting process reason, he asked. Mr. Crist said we were told from ESDC that once they have the money, they will pay us.

Mr. Simcoe reviewed a series of change orders: Contract 2G, Kubricky. Some are small relating to the Water Treatment Plant trench drain lines; tank installation for chemical storage tanks; hand rail in the chemical bulk storage area (\$33,194.29).

Contract 3, 1,000 Oakes, settlement amount in regard to delay due to access to land (\$129,106.00).

Contract 6, W.M. Schultz, to adjust substantial completion date to July 31, 2009 (\$0.00).

Contract 5, Delaney, to address cost impacts resulting from the lack of easements and adjust substantial completion date to August 31, 2009 (\$479,286.46).

Contract 7, Delaney, to adjust substantial completion date to July 31, 2009 (\$0.00).

Contract 4, Trinity, to adjust substantial completion date to July 31, 2009 (\$0.00).

TOTAL: \$641,586.75

Mr. Connors stated these change orders are from our unanticipated contingency. How much is left in contingency after we authorize this \$650,000, he asked. Mr. Simcoe said at this point, there is more than \$3 million in contingency. Chairman Lawler said the project is still under budget. Mr. Wait asked what happens if we end up under budget, do we pay down bonds? Chairman Lawler said we would come back to this Board to decide what we want to do. He said that would be a problem we would be glad to figure out an answer to. Budget wise and financially, we are in good shape, he said. He stated these are the big items we knew we had hanging out there. All of our lawsuits are settled, he added.

Mr. King said because these contracts are based on estimated quantities, we are not officially at the close out process with Trinity, he said. On the application for payment I have before me, the adjusted contract price \$5,362,000, he said. Because they haven't done the pluses and minuses yet, completing this to date exceeds the \$5.3. He said the next resolution is approving vouchers, and he does not think he has the power to approve their voucher since it will exceed the contract price. There isn't an official change order here because they haven't done the close out, he said. The current payment due is for \$145,000, he stated. Mr. Simcoe said Trinity's pipe is almost installed, and there is not a lot left remaining. They are over their stated contract amount, he said. He said usually, there is a final change order once all of the quantities are known that balances this off. Mr. Connors asked if we could authorize Mr. King to sign the change orders up to X which would cover some of the requested reimbursement. Mr. Loewenstein said we cannot zero out the job until spring. There is still work to be done, he said. Mr. Simcoe said there is a retainage on the overall amount they are being paid. He said it is a unit price basis. The quantities vary from the original estimated quantities and the amount is turning out higher, he said. Mr. Wait said he does not understand why there hasn't been an adjustment to the contract yet by virtue of the added material we know and somebody certified they have used. Mr. Simcoe said this is where the mechanism of the payment application process gets complicated. He is being paid this quantity x this unit = this number. The final change order makes the final adjustments, he said. Mr. Crist said he would favor an interim change order. The engineer would have to produce that to show

adjusted quantities, he said. It should reflect that Mr. Loewenstein approved the change order, he said. **Mr. Wait moved to authorize the Treasurer to pay the amount as indicated on the interim change order subject to review and approval of the change order by the Attorney and Executive Director. Mr. Johnson seconded. Unanimous.**

**Mr. Wait moved to approve the change orders. Mr. Connors seconded. Unanimous.**

Chairman Lawler said copies of vouchers for payment have been distributed, and he asked if anyone had questions on them. **Mr. Johnson moved to authorize payment of vouchers, exclusive of the Trinity voucher. Ms. Hynes seconded. Unanimous.**

Chairman Lawler set the date and time for monthly Authority meetings the last Thursday of the month at 2:45 p.m.

Mr. Crist discussed a list of policies that the Authority will be adopting. He stated he has these policies in draft form, and he wants to review them with the NYS Public Authority's office, so at this point, they will be tabled.

Chairman Lawler said he gets a lot of questions about trying to help communities with connection fees, and it's becoming a recurring theme that communities want to hook up to our water system, but doing so is a relatively expensive undertaking on their part. He said he would like this Board to consider a policy to discuss at the next meeting. As an example, he said Town A says they have X number of dollars. Town B says they would like to connect, and they have half of or twice as much as Town A. If we help the biggest connection fee, naturally, every town thinks they would be able to get that much money regardless of the percentage of the connection cost, he said. He stated that he would like this Board to consider a percentage-based policy, and this is all dependent on the Authority's financial situation. He said just as an idea/discussion, if a town bought ½ million gallons per day, we would cover one-third of the connection cost to a maximum of \$200,00; less gallons per day, then we would cover up to \$100,000. The more water they buy, the more we will help, he added. Mr. Wait asked if we could dedicate any surplus we have towards this fund and to give consideration to the rates a town pays. Chairman Lawler said we are committed to one rate in our contract proposals, \$2.05 for everybody, but if a town will pay a little more for help on front end connection costs, we would consider that, but that would be the town's option. Our story is \$2.05/thousand for everybody, he said. If we have a standard policy, the better that will be for everyone involved, he stated.

Chairman Lawler stated LFTC has the funding in place for the water tank. In the past, we said when the LFTC had a commitment on their funding, we would move forward with the bidding process. They secured a Letter of Credit from Key Bank for \$40 million, so we should move forward with this, he said. He said he received a letter on this from LFTC. **Mr. Connors moved to authorize the preparation of the bid documents. Mr. Wait seconded. Unanimous.**

Mr. Connors moved to adjourn to executive session to discuss litigation. Mr. King seconded. Unanimous.

Respectfully submitted,

Elaine M. Sodemann